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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of
Telephone Number Portability

)
) CC Docket No. 95-116
)
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**FURTHER REPLY OF THE ASSOCIATION
FOR LOCAL TELECOMMUNICATIONS SERVICES**

Pursuant to the Public Notice of Proposed Rulemaking released March 14, 1996, in the above docket (DA 96-358), the Association for Local Telecommunications Services ("ALTS") hereby files this further reply concerning the effect on the Commission's existing Telephone Number Portability docket (10 FCC Rcd 12350 (1996)) of the recent passage of the Telecommunications Act of 1996 ("96 Act"), Pub.L. 104-104, 110 Stat. 46 (1996).

SUMMARY

Seldom has simple statutory language and logic been handled so violently as in some of the further comments of the incumbent local exchange industry in this docket. Leading this Orwellian charge is the United State Telephone Association, which claims that:

- Although Congress in the '96 Act deleted the "economically feasible" requirement for number portability which had been contained in earlier versions of the legislation, the Commission should now reinsert such a demand on its own; and,

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● Although Congress required RBOCs seeking interLATA authority to make available interim portability only for the short period until full portability became available pursuant to the Commission's regulations, this should be interpreted as a Congressional mandate that the Commission need not address interim portability under the '96 Act.

These contorted readings of the '96 Act make no sense whatever for the compelling reasons shown below. Instead, as demonstrated in the attached joint statement and in many authoritative initial comments, full number portability is technically feasible now, and the Commission should order its implementation immediately.

I. THE '96 ACT REQUIRES THE COMMISSION TO IMPLEMENT THE LECS' DUTY TO PROVIDE FULL NUMBER PORTABILITY WHEN IT IS "TECHNICALLY FEASIBLE," NOT WHEN IT IS "ECONOMICALLY FEASIBLE."

The telecommunications proposal which passed the Senate in 1994, the "Communications Act of 1994," S. 1822, imposed an obligation to provide number portability "as soon as technically and economically feasible" (§ 230(c)(1)(G), emphasis supplied; S.REP. No. 103-367, p. 143). However, the bills which passed the Senate and the House of Representatives in 1995 each omitted the "economically feasible" language of S. 1822 (see CONF. REP. on S. 652, § 251).

Unfortunately, Congress' shift on this important matter has entirely escaped the notice of USTA (Further Comments at 4):

"The questions of whether a particular LEC is technically capable of deploying the long-term number portability solution necessarily involves questions of whether the LEC is capable of making the investments necessary.*

* For example, the Commission has found that the public

interest is served where LECs avoid inefficient cost expenditures that may lead to additional costs to all ratepayers or reduced opportunities for provision of new services ... Similarly, inefficient deployment of number portability capabilities may lead to unnecessary costs to rate payers, or reduced opportunities to deploy new capabilities, both of which could impede local competition."¹

This is truly an audacious argument. Having failed in its effort to retain the "economically feasible" limitation in the 1995 versions of the bills passed by the House and the Senate, USTA now asks the Commission to give it exactly what Congress refused to provide, and does so under the guise of not wanting to "impede local competition."

The Commission should promptly blow the whistle on this sort of statutory "interpretation." The competitive industry has no interest in creating an undue economic burden for the incumbent providers, as evidenced in the implementation plans that have already been approved in several states. Competitive Local Exchange Providers ("CLECs") are perfectly willing to adopt mechanisms which will assure the most cost-effective roll out of full number portability possible, consistent with the statutory standard. But they will not permit the ILECs to rewrite the '96 Act to impose limitations that were expressly deleted by Congress. The Commission should conclude that the costs of number portability are every bit as non-discretionary from a statutory point of view, as well as a matter of sound policy, as

¹ See also GTE's Further Comments at iii: "'Technically feasible' must not be equated with 'technically possible.'"

the costs of universal service, telecommunications relay services, and similarly mandated functionalities.

**II. THE '96 ACT PLAINLY REQUIRES BOTH
INTERIM AND FULL NUMBER PORTABILITY.**

USTA also interprets the '96 Act as limiting the Commission's involvement to full number portability:

"Congress would not have provided for interim solutions as an element of the competitive checklist if it believed interim solutions would not be sufficient to promote competition." (Further Comments at 2.)

"... interim local number portability solutions are sufficient to promote local competition" (Further Comments at 1.)²

This clearly misinterprets the statute. USTA might as well argue that a statute requiring traffic victims be taken to a hospital somehow reveals Congress' indifference to whether they are also given first aid at the scene of their injuries!

Section 251(b)(2) imposes on all local exchange carriers the duty: "... to provide to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission." Section 271(c)(2)(B)(xi) illuminates the meaning of Section 251(b)(2) by requiring those RBOCs seeking to provide in-region interLATA service to offer:

"Until the date by which the Commission issues regulations pursuant to section 251 to require number portability, interim telecommunications number portability through remote call forwarding, direct inward dialing trunks, or other

² See also Ameritech's Further Comments at 2: "There is nothing further the Commission needs to do in this proceeding on the issue of interim number portability."

comparable arrangements, with as little impairment of functioning, quality, reliability, and convenience as possible. After that date, full compliance with such regulations."

Section 271(c)(2)(B)(xi) reveals Congress' clear understanding of both full and interim number portability solutions, and its recognition of the clear need for interim solutions until such time as full portability is implemented.

The underlying operation of Section 271(c)(2)(B)(xi) underscores this point. In Section 271(c)(2)(B)(xi), Congress required RBOCs seeking in-region interLATA authority to provide interim solutions even prior to the issuance of Commission regulations, and also ordered the RBOCs to comply with such regulations once issued. If the Commission's regulations failed to require interim portability in addition to full portability (as USTA amazingly argues), and if full number portability were not available immediately upon the issuance of the regulations (and, instead, were ordered implemented pursuant to a schedule), then RBOCs providing interim portability pursuant to Section 272(c)(2)(B)(xi) could terminate such interim arrangements once the regulations were issued, and cease offering any form of number portability until the ultimate implementation of full portability. Obviously, USTA's assertion that the Commission need not address interim portability is flatly mistaken.

**III. ALTS AND USTA DO AGREE THAT ALL USERS WITHIN SERVICE
AREAS WHERE PORTABILITY IS OFFERED SHOULD SHARE THE COSTS.**

One area where ALTS and USTA do agree is that the costs of

implementing number portability should be borne by all customers, including customers of the ILEC as well as customers of the CLEC, as soon as number portability becomes available (USTA Further Comments at 4-5). It is obvious that all customers will benefit from the implementation of number portability, even if they do not change carriers, just as all customers benefitted from the implementation of equal access. Just like equal access, ALTS believes that the costs should be spread to each carrier based on some measure of the number of customers it has, i.e. subscriber access lines. And just like equal access network reconfiguration costs, the carriers must recover the costs of number portability in a manner that does not create customer confusion or dissatisfaction, such as would be created if a carrier were permitted to recover such charges through a specific line charge on a subscriber's bill.

Of course, the only costs to be recovered based on the number of end users each carrier has as subscribers should be the third-party costs of implementation. Each carrier should have to bear its own internal costs, just as it does with all mandated compliance expenses.³

³ USTA and BellSouth also argue that decisions concerning cost recovery are only "implementation," and should be left to the states. Improper cost recovery requirements would be as fatal to number portability as improper technical standards, and cannot be left to state discretion. The Commission should articulate cost recovery standards, and insist they be implemented by the states.

**IV. THE INITIAL COMMENTS AGREE THAT THE LRN FORM OF
FULL NUMBER PORTABILITY IS "TECHNICALLY FEASIBLE."**

None of the initial comments try to dispute that the LRN form of number portability is "technically feasible" within the meaning of Section 251(b)(3). See Ameritech's Further Comments at 3, insisting that LRN "fully complies with the Act;" NYNEX's Further Comments at 5: "LRN is an addressing scheme which, when integrated into an overall number portability platform, holds the best promise of any addressing scheme evaluated thus far to enable the industry transition to a long term database driven number portability arrangement;" NYPSC's Further Comments at 1: "[T]he New York Commission has endorsed Location Routing Number (LRN) as the long-term implementation method for New York;" Sprint Comments at 2: "... the LRN proposal is the only one which meets the settled criteria for a true local number portability solution;" MCI Comments at 5: "LRN is the only approach consistent with the new law;" AT&T Comments at 2: "... the Commission should fulfill its statutory duty by selecting the Location Routing Number ("LRN") permanent solution."

While no ILEC disputes the merits of LRN, some do try to "spin" the LRN proposal. See NYNEX Comments at 5 (describing LRN as solely an "addressing" scheme); and GTE Comments at n. 4 (urging "[s]eparating number portability into triggering and routing functions"). Such contentions are transparent efforts to needlessly increase the involvement of ILEC networks in the LRN implementation process. MCI's Comments properly describe why the

Commission should reject these efforts to burden LRN simply to increase ILEC revenues (MCI Comments, Attachment B).

CONCLUSION

For the foregoing reasons, ALTS requests that the Commission recognize that the '96 Act requires prompt implementation of both interim and full service provider number portability, and order that full number portability be implemented using the LRN approach along with neutral cost recovery of third party costs among all end users which gain the ability to port numbers.

Respectfully submitted,

By: Richard J. Metzger /s/

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April 5, 1996

JOINT STATEMENT

The undersigned are individuals in their respective companies with technical expertise and responsibility in the area of number portability. We are familiar with the investigations and work shops that have been conducted throughout the country relating to the technical feasibility of the various methods of providing full number portability, including the work shops and implementation efforts in New York, Seattle, Illinois, Maryland and Georgia. We have conducted in depth analyses of the results of these work shops, and the technical literature relating to the various methods of providing number portability.

Based upon these investigations and work shops and our analyses, we are fully confident that the Location Routing Number ("LRN") form of full number portability is technically feasible within the meaning of Section 251 of the Telecommunications Act of 1996, and is available for implementation as early as 2d quarter, 1997, with a comprehensive roll-out in 3d quarter, 1997. Although particular details relating to implementation, cost recovery, and billing are still being developed, we have concluded that the LRN architecture using the N-1 carrier doing data dips is technically feasible, and can be implemented in the earliest possible time frame. Accordingly, we urge the Commission to order the implementation of the LRN solution for local number portability.

Robert W. Traylor - MCImetro
Sherm Ackley - Electric LightWave, Inc.
Pam Kenworthy - MFS
Ken Scharff - Eastern Telelogic
Ed Gould - TCG

VERIFICATION

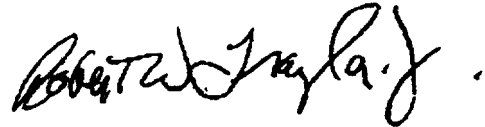
**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

**Telephone Number Portability
Policies**

**) CC Docket No. 95-116
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I, Robert W. Traylor, have read the foregoing Joint Statement appended to the Reply Comments of the Association for Local Telecommunications Service (ALTS) in CC Docket No. 95-116, filed April 5, 1996, and hereby attest that the same is correct and true to the best of my knowledge.



Robert W. Traylor, Jr.

Executive Staff Member

NCIMetro

VERIFICATION

I, Sherman L. Ackley, PE, have read the foregoing Joint Statement appended to the Reply Comments of ALTS in CC Docket No. 95-11, filed April 5, 1996, and hereby attest that the same is correct and true to the best of my knowledge.

Sherman L. Ackley
Signature

Director - Special Projects
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Electric Lightwave
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VERIFICATION

I, Pamela Kenworthy have read the foregoing Joint Statement appended to the Reply Comments of ALTS in CC Docket No. 95-11, filed April 5, 1996, and hereby attest that the same is correct and true to the best of my knowledge.

Pamela Kenworthy
Signature

Senior Manager - Number
Title Resource Planning
MFS Communications Co., Inc.
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VERIFICATION

I, KENNETH J. SCHARFF, have read the foregoing Joint Statement appended to the Reply Comments of ALTS in CC Docket No. 95-11, filed April 5, 1996, and hereby attest that the same is correct and true to the best of my knowledge.

Kenneth J. Scharff
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April 4, 1996

Richard Metzger
General Counsel
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Dear Mr. Metzger:

I, Ed Gould, Vice President - Network Architecture and Standards at Teleport Communications Group, have read the Joint Statement to be attached to ALTS Reply Comments on Telephone Number Portability (CC Docket No. 95-11) to be filed April 5, 1996. I agree with the statement .

A handwritten signature in black ink, appearing to read 'Ed Gould', with a long horizontal flourish extending to the right.

Ed Gould
Vice President
Network Architecture and Standards
Teleport Communications Group

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Further Reply of the Association for Local Telecommunications Services was served April 5, 1996, on the following persons by first-class mail or hand service, as indicated.


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